

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

TEAM BIONDI, LLC, : CIVIL ACTION NO. 3:17-2294
Plaintiff : (JUDGE MANNION)
v. :
NAVISTAR, INC., PHILA. USED :
TRUCK CENTER, *et al.*, :
Defendants :
:

ORDER

In accordance with the accompanying memorandum issued this
same day, **IT IS HEREBY ORDERED THAT:**

- (1) Navistar's motion for judgment on the pleadings, (Doc. 17), for failure to state a claim upon which relief may be granted and failure to plead fraud with particularity, pursuant Fed.R.Civ.P. 12(c), 12(b)(6), and 9(b), with respect to the tort claims raised by the plaintiff in its amended complaint, (Doc. 4), is **DENIED IN ITS ENTIRETY**;
- (2) The plaintiff is put on notice that it must identify and effect service upon the two John Doe defendants **within 30 days** of the date of this Order if it wishes to proceed with its claims against them. If plaintiff fails to do so, the two Doe defendants will be subject to dismissal without prejudice pursuant to Rule 4(m); and

(3) The court directs the parties to confer as to the proper corporate defendant(s) in this case, and if they agree, to file a stipulation as to these defendant(s) **within 14 days** of the date of this Order.

s/ Malachy E. Mannion

MALACHY E. MANNION
United States District Judge

Dated: September 28, 2021

17-2294-01-Order